

b) Maine Coastal Program

Enabling Legislation

5 MRSA § 3305 (A): Directs SPO to prepare policies to guide and carry forward the wise and coordinated development of the State's economy and energy resources and the conservation of the State's natural resources.

38 MRSA § 1801-1803: Establishes Maine coastal management policies and directs state, local, and federal agencies with responsibility for regulating, planning, developing, or managing coastal resources to conduct their activities consistent with these policies. Establishes policies on port and harbor development, marine resources management, shoreline management and access, hazard area development, state and local cooperative management, scenic and natural areas protection, recreation and tourism, water quality and air quality.

Federal Coastal Zone Management Act of 1972 (CZMA), 16 USC, §§ 1451-1464:

Establishes national and state interest in the development and conservation of fragile coastal resources and establishes guidelines and incentives for states to develop coastal management plans. States with approved plans that meet required program elements are eligible for CZMA grants and to exercise review authority (consistency requirements) over federal activities in the coastal zone. Maine has had an approved program since 1978 and receives \$2.3 million per year from CZMA for coastal-related projects conducted by SPO and other state agencies, municipalities and nonprofit organizations.

In addition to ongoing duties, the Legislature frequently calls on SPO to conduct short-term coastal and marine projects. Examples of these include:

- *Legislative Resolve, H.P. 1384*: Directs SPO to provide secondary staffing to a study committee that will look the loss of commercial fishing waterfront access and other economic development issues affecting commercial fishing.

Positions Contributing to this Responsibility:

- (1) State Planner (also supports other responsibilities)
- (1) Policy Development Specialist
- (1) Policy Development Specialist (also supports Natural Resources Planning)
- (1) Policy Development Specialist (PT)
- (2) Senior Planners
- (1) Planner II
- (1) Planner II (also supports Natural Resources Planning and other responsibilities)
- (1) Planner II (PT)
- Shared Clerical and Administrative Support

Description

For generations, much of the nation's coast was resilient to human pressures. But population growth associated with the post-war and baby-boom generations and the continued popularity of coastal areas (as economic and population centers) has caused considerable degradation of habitat and water quality. Public access to the shoreline has become more limited and the number of conflicts among users of coastal resources has increased.

Congress responded to these threats in 1972 with the passage of the Coastal Zone Management Act (CZMA). The law, administered by the National Oceanic and Atmospheric Administration (NOAA), authorizes funding for state coastal programs around the country to balance conservation of the coastal environment with human needs and activities.

In 1978, the Governor designated SPO to coordinate the Maine Coastal Program under CZMA. The program is a partnership among local, regional, and state agencies and many nonprofit organizations, such as local land trusts and economic development groups. Through this network, all partners help manage coastal resources.

Under the Maine Coastal Program (MCP), SPO directs funding to other state agencies, municipalities, and nonprofit groups to protect fragile resources, to promote stewardship and to develop coastal economic resources. The MCP funds projects that respond to changing needs of coastal communities by:

- protecting ocean resources, including fisheries and habitats
- promoting aquaculture while respecting environmental and social limits
- protecting coastal wetlands
- managing the impact of development on coastal resources, including controlling polluted runoff
- securing public access to coastal waters for commercial harvesting and recreation
- enhancing coastal cleanup programs
- protecting sensitive watersheds and beaches

Together with its coastal partners, the MCP develops the State's coastal management plan that lays out priorities for use of federal funds. One-third of those funds go to state natural resources agencies for protection of coastal waters and shorelands. Without coastal funding, for example, the Department of Marine Resources would not have a shellfish program. The MCP affords the Department of Environmental Protection the ability to enforce coastal regulations and greatly enhances SPO's ability to assist coastal communities with land use planning and codes administration. While often behind the scenes, the Maine Coastal Program acts as a catalyst for innovation on coastal management issues.

Progress towards Goals and Objectives

The Maine Coastal Program contributes to the overall measure of performance for natural resources planning, namely that decision-makers have the information required to balance development and conservation of coastal resources (see Figure 2 on page 10).

Assessment of Progress

Through the work of the Maine Coastal Program on a variety of coastal management issues, Maine decision-makers (the Legislature, Governor, and state agencies) have timely and pertinent information and analyses to inform their discussions and decisions. The Maine Coastal Program's efforts to inform decision-makers include:

- *Coastlines*, a semi-annual newsletter highlighting current coastal management issues
- Maine Coastal Program's website
- Legislative briefings and testimony on coastal management issues
- *State-of-the-Coast*, a report that assesses the health and status of coastal resources
- *CoastLinks*, a guide to Maine's coastal organizations

Performance Outputs for 2000

- More than 80% of government and the nonprofit community partners believe SPO is effective as the lead agency charged with coordinating the Coastal Program (1999)
- Staffed the launching of the nation's first comprehensive coastal ocean observing system (GoMOOS), including securing an initial \$6 million grant through the Office of Naval Research
- 1,000 volunteers monitor coastal water quality
- 25 grants for watershed protection activities are funded biennially to coastal towns and not-for-profit watershed coalitions
- 10 right-of-way discovery grants are provided to municipalities annually
- Over 8000 Coastal publications are distributed annually
- 2,300 volunteers participated in 2000 Coastweek activities, collecting 38,500 pounds of marine debris along 267 miles of coastline
- Cosponsored and presented at 2nd Annual Beaches conference with 200 attendees
- Updated *Coastlinks*, a directory of government agencies, marine fisheries trade organizations, environmental groups, research and educational institutions, land trusts and economic development entities
- Reviews of federal agency projects for consistency with Maine's coastal management issues are completed efficiently and within prescribed deadlines
- 86% of the Pen Bay Stewards Steering Committee and 100% of the Gulf of Maine Ocean Observing System Board report SPO staff support as *Very Good* or *Excellent*

Other Evaluative Processes

- *Annual Federal Review*. Annually, NOAA reauthorizes Maine's coastal grant and approves a work plan. Their approval indicates agreement with the priorities the MCP chooses to pursue in any given grant year. The MCP submits semi-annual

performance reports to NOAA that detail accomplishments, problems, completed tasks, and general progress.

- *CZMA Section 312 Program Review.* NOAA reviews the Maine Coastal Program under Section 312 of the Coastal Zone Management Act every 3 years. Based on interviews and an audit of documents during a weeklong site visit, NOAA assesses the effectiveness of the State's coastal management activities. Typically, NOAA's reviews include noted accomplishments as well as "program suggestions" (voluntary actions to improve the coastal program) and "necessary actions" which are mandatory. In 2000, NOAA confirmed that the State is adhering to its adopted coastal management plan.

NOAA cited the Maine Coastal Program for 10 accomplishments in the 2000 review. Some of these include: providing technical support to municipalities (a service which is in high demand by municipal officials); working with the Kennebec Coalition on removing Edwards Dam; expanding coastal outreach and education efforts by producing new media products such as radio announcements; working with the Land for Maine's Future Program to preserve public access to the coastal zone; and assisting the Downeast region with their marine-related development goals.

In 2000, NOAA offered suggestions that the State improve its capacity for using geographic information systems, conduct periodic assessments of the effectiveness of our coastal core laws, develop performance indicators on coastal health, improve opportunities for public access to coastal areas, and develop regulatory approaches to minimize eroding coastal bluffs. The Maine Coastal Program is working to integrate these suggestions into its work plan.

There was only one necessary action –to improve public notice for federal consistency reviews. The MCP is required to make findings whether federal or federally-funded activities are consistent with Maine's coastal management policies and to seek public input in the process. Improvements to the public notice procedure are now underway.

- *CZMA Section 309 Priority Assessment:* The CZMA requires participating states to develop a "program enhancement strategy" every three years to qualify for Section 309 funds. SPO involves the public, other state agencies, and a broad array of coastal organizations in the process, which includes identifying emerging issues and developing new approaches to solving coastal problems. NOAA approved the MCP's most recent assessment in April of 2001 thereby retaining our eligibility for more than \$400,000 in funds to tackle emerging coastal issues. Without NOAA's approval, this funding would have ceased.
- *Financial Audits:* The Maine Coastal Program submits financial reports on a quarterly basis to NOAA and is subject to financial audits. The 2001 financial audit of the Maine Coastal Program resulted in two findings of situations where improvement of financial management is needed; 1) improved tracking of state matching dollars; and 2) the need for additional grant oversight to ensure that all authorized work is completed by the time the federal grant expires.

Summary of Rule-making Activity

SPO has no rule-making authority for the Maine Coastal Program.

Comparison of Federal and State Laws

The federal Coastal Zone Management Act provides the framework for state coastal programs. Rather than a series of specified requirements, CZMA outlines broad topical areas, such as waterfronts and coastal hazards, that are considered to be of national significance and requires that states address them adequately in their own coastal management plans. States have broad latitude to design approaches that reflect their needs. For example, the CZMA requires states to exercise land use controls over coastal development, but rather than requiring Maine to create a separate regulatory program for oversight of coastal development, enforcement of Maine's existing environmental and land use laws meets this requirement. Further, SPO is allowed to amend the Maine Coastal Plan when state legislation changes coastal laws. The federal CZMA program is sensitive to staff capacity issues, the status of local planning efforts, and the State's coastal policies.

Constituencies Served

- Legislature
- Governor's Office
- State and federal partners
- 138 coastal towns and six unorganized territories within the coastal zone
- Citizen volunteers
- Students
- Land developers
- General public

Efforts to Coordinate with Others

Maine's Coastal Program would not exist but for coordinated efforts with other partners. SPO is the lead agency for the coastal program, but provides funding to the Maine Department of Environmental Protection (regulation and enforcement of environmental laws along the coast), the Maine Department of Marine Resources (permit review assistance, policy development for new approaches to fisheries management), the Maine Geological Survey (policy development for beach nourishment), and the Maine Attorney General's Office (assisting state staff with coastal litigation and enforcement). MCP also provides grants to municipalities and coastal watershed groups for activities related to water quality planning and pollution remediation.

The following is a breakdown of the distribution of Maine Coastal Program funds:

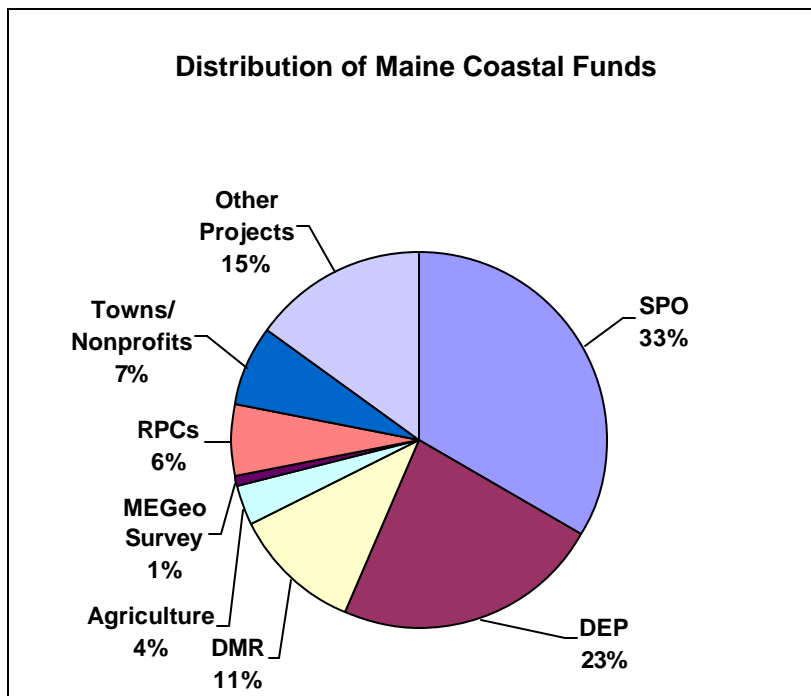


Figure 3: Distribution of Maine Coastal Funds to state and local agencies

Examples of other successful collaborative efforts include:

- Balancing Conservation and Economic Development:* Along the eastern parts of the Maine coast, economic development is sorely needed. The MCP worked with the Sunrise County Economic Council, a Washington County nonprofit corporation, to develop local initiatives in marine and natural resources-based industries. Over three years, the MCP invested \$379,000 in the Economic Council's efforts. One example was an effort that helped home crab pickers to comply with new federal regulations for safe seafood handling.
- International Cooperation:* The MCP supports the work of the Gulf of Maine Council (GOM) on the Marine Environment, comprising the Governors and Premiers of the states and Canadian provinces that border the Gulf of Maine. The GOM Council fosters cooperative actions within the Gulf of Maine watershed to preserve a common heritage and encourage sustainable resource use for present and future generations.
- Science to Management:* The MCP launched the Gulf of Maine Ocean Observing System (now a separate 501 (c) (3) nonprofit organization with 29 dues paying members). GoMOOS is a system of moored buoys, land-based radar and satellites that provides real-time data to coastal managers and coastal industries.
- Water Quality Improvement:* MCP provides funding for the training and support of citizen monitoring groups up and down the coast of Maine. Largely because of volunteer efforts, the Department of Marine Resources was able to meet its Year 2000 goal for reopening closed shellfish beds a full two years ahead of schedule.

- *Citizen Stewardship:* Each year, the MCP sponsors *Coastweek*, the highlight of which is more than 50 clean-ups along the coast conducted by civic and school organizations. In the Penobscot Bay region, the MCP worked with a local steering committee to create an education and stewardship program that teaches people about the Bay and fosters volunteer activities that help the environment.
- *Better Fisheries Management:* For years, fish harvesters have been asking for a more active voice in management decisions. With MCP funding, the Maine DMR developed a co-management structure for the lobster fishery that was adopted by the Maine legislature. Lobster zone councils with elected representatives now have input into management of the resource.

Alternate Delivery Systems

The State Planning Office uses a variety of delivery systems to streamline processes, leverage funds, save time and money, and reach more people. Alternatives to traditional delivery systems include: contracting with others to provide services, fee-for-service, using volunteers, interns and research fellows, partnering with other organizations, sharing resources, and using electronic mechanisms.

Examples of successful alternative delivery systems in the Maine Coastal Program include:

- *Streamlined Contracting:* The MCP created a consolidated contracting option for state agencies to contract with regional planning commissions for delivery of planning services to towns. SPO, DOT, DEP, and DECD each previously executed separate contracts with the agencies. This effort not only provides the agencies a single contract document for coordinated delivery of services to communities, but also draws state agency staff together in planning its programs and policies.
- *Partnering:* NOAA funds two other Maine organizations: the Maine Sea Grant College Program in Orono and the Wells National Estuarine Research Reserve. The MCP regularly partners with them on projects of mutual interest. Examples include the “Sea and Shore” radio series on Maine Public Radio, a 1998 Year of the Ocean conference, and a coastwide study of dissolved oxygen in coastal waters. These projects could not have been undertaken by any one entity alone, but jointly were effectively carried out.
- *Sharing Resources:* Maine’s coastal regions have differing needs for municipal technical assistance. Full-time staffing, for example, may not be affordable or effective if funded by one entity. For the past four years, the MCP has covered 50% of the costs of a full-time beach planner based at the Southern Maine Regional Planning Commission. Participating towns fund the other half of the position.
- *Train-the-Trainer:* The MCP uses a “train the trainer” approach to deliver technical assistance more cost-effectively. Through the Nonpoint Education for Municipal Officials (NEMO) program, MCP and DEP teach Planning Boards and other decision-makers about the relationship between land use and water quality. After a

successful pilot in southern Maine, “trained trainers” from around the State will deliver the NEMO program to other towns.

- *Internet Technology:* SPO files the annual coastal grant application electronically. This system expedites the award of federal funds to the State. In addition, SPO developed a tutorial on how to use remotely sensed land use and land cover data, which was distributed to municipal and regional planners via a CD Rom.
- *Fellowships:* Working with NOAA, the MCP arranged for two, multi-year fellows to do work for the State of Maine. One fellow developed a method for reviewing impacts on coastal wetlands and the other is helping to create new policies and standards for beach replenishment.

Emerging Policy Issues

The following interagency coastal issues are likely to command SPO’s time and attention in the coming 1-3 years:

- *Coastal Development:* Poorly sited and managed development continues to be the most pervasive threat to the coastal environment, with coastal water pollution and habitat degradation as chief concerns. Certain types of development, such as that which pushes out working waterfront communities, the siting of multiple piers and docks within an embayment, and the creation of impervious surface in sensitive coastal watersheds, are of particular concern.

***SPO’s Role:** The MCP continues to look for innovative and cost-effective methods to assist coastal municipalities with reducing the impacts of development, including incorporating Maine’s nationally recognized approach to Smart Growth into its work. In addition, a workshop series on dock and pier siting and a small grants program to help towns design protective mechanisms for working waterfronts will be launched in 2001. The MCP is likely to be involved with policy discussions in connection to the effectiveness of existing state regulations such as shoreland zoning.*

- *Public Access to Coastal Waters:* Public access to coastal waters continues to erode. Private ownership of much of Maine’s coastline and a narrow interpretation of the public trust doctrine by Maine courts further limit the public right to recreate along the shore. New funding mechanisms to secure shoreline public access are needed.

***SPO’s Role:** The MCP will help create a public dialogue about access to coastal waters and will likely be involved in policy discussions to enhance coastal access through advocating changes in land use law, supporting land acquisition (through the Land for Maine’s Future Program), and developing policy options for decision-makers.*

- *Ocean Management:* The loss of offshore wild fish stocks and growth in new fisheries continued to deplete coastal fisheries. Many of Maine’s coastal communities rely on commercial fisheries and related businesses.

SPO's Role: The MCP gives priority to the sustainable use of marine resources and the protection of important marine habitats. The MCP will help develop a multi-agency state strategy to improve marine habitat protection. This may include designating marine protected areas. The CZMA provides the MCP with a tool known as "special area management planning" that may provide financial resources for ocean mapping. It also includes innovative ways of engaging diverse stakeholders in a reasoned discussion to design new management approaches. The MCP helped launch the first-in-the-nation Gulf of Maine Coastal Ocean Observing System.

- ***Aquaculture:*** Aquaculture can improve coastal economies in some of the poorest regions of our coast. The challenge is helping this industry, while respecting environmental and social limits. Aquaculture development is a particularly contentious issue and while the State, through the Department of Marine Resources, has devoted additional resources to aquaculture policy development and management, there are still unmet needs.

SPO's Role: As a neutral party, the MCP is positioned to engage stakeholders in a dialogue about the State's aquaculture strategy. The MCP has published an educational booklet for towns and other participants in the aquaculture lease process to clarify state and local roles. MCP is funding a comprehensive review that will monitor data to better understand the impact of finfish and to recommend changes in lease monitoring requirements to help mitigate conflicts.

- ***Coastal Wetlands:*** Coastal wetlands are healthier due to stringent regulations under the Natural Resources Protection Act. Nevertheless, in addition to preserving the physical boundaries of coastal wetlands, scientists and planners are now concerned with protecting wetland functions and values through a watershed approach.

SPO's Role: The Coastal Program places a high priority on development of new and more effective approaches to protect coastal wetland resources. Recently, the MCP helped create a new mechanism to fund coastal wetlands restoration. The Coastal Wetlands Restoration Partnership invites contributions from the private sector for wetlands work and distributes funds according to priorities developed by a steering committee. The MCP will also be mapping and characterizing salt marshes, a critical coastal wetland resource. In 2001, MCP received a sizable grant from the National Marine Fisheries Service to prepare a statewide strategy and to distribute funds for restoration projects in the Gulf of Maine.

- ***Coastal Hazards:*** Beach-related tourism contributes much to the local, regional and state economy. Although the threats posed by coastal hazards do not pervade the entire coastline, erosion continues along southern Maine's sandy beaches. Furthermore, a recent U.S. Supreme Court decision threatens Maine's nationally recognized approach for protecting frontal dune areas. Towns are calling on the State to develop cooperative programs that will reduce threats to private property and that protect important recreation areas and critical habitats.

SPO's Role: The MCP works with communities to help implement their Regional Beach Management Plans. In the Saco Bay area, this will include working with

local stakeholders and the U.S. Army Corps of Engineers to mitigate chronic erosion in Camp Ellis and to help the City create a vision for a more sustainable beach neighborhood. MCP helped the Maine Geological Survey obtain a two-year fellow to develop guidelines for beach nourishment. MCP's work on nourishment focuses on the equity issues associated with using public funds to nourish beaches that are essentially private and to help establish documented public rights to sand beaches where public funds are used. The MCP is also active in proposed changes to the sand dune rules. MCP will continue to support the annual State of Maine's Beaches conference for a growing constituency of beach owners and beach lovers who are interested learning what they can do to protect Maine's beaches.

Emerging Programmatic Issues

- *Less Dependence on Coastal Funds for Environmental Enforcement:* SPO administers \$2.3 million in federal coastal funds as the lead agency for the Maine Coastal Program. Maine spends more than one-third of these grant funds on administration and enforcement of state environmental laws along the coast. Using General Funds for some of this purpose would: 1) improve the State's ability to match federal dollars and 2) allow more federal coastal funds to flow to on-the-ground local and regional projects.

Background: Maine's environmental enforcement agencies rely heavily on federal coastal funds to administer state environmental laws along the coast. In many states, this responsibility is financed by state general fund dollars. Maine is required to match its federal grant with an equivalent amount of state resources and, for the most part, in-kind personnel contributions and capital expenditures account for the State's match rather than cash. Where Maine has reached the upper ceiling of its federal funding, SPO will be forced to do more with even less or eliminate certain areas of focus.